IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6089 of 2005

Between:

T.Brij Raj Singh, S/o.Ram Kishan Singh,
R.K.N.T.Srirampur Area, Singareni Collieries Company Ltd.,
Srirampur Area, Adilabad.

..... PETITIONER

AND

The Singareni Collieries Company limited, rep.by its General Manager, Srirampur Area, Adilabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, especially one in the nature of writ of Mandamus,

i. declaring the proceedings No.SRP/PER20-008/4912, dt.20-09-2004 issued by the respondent as illegal, arbitrary and set aside the same.

ii. consequently direct the respondent to regularize quarter No.SD-521 situated at Godavari Colony CCC Naspur, Adilabad District on the petitioner name duly refunding the already recovered amounts towards penal rent.

Counsel for the Petitioner:MR.K.VASUDEVA REDDY

Counsel for the Respondent: MR.NANDIGAM KRISHANA RAO

The Court at the admission stage made the following O R D E R:

The petitioner challenges the impugned proceedings dated 20.09.2004, whereunder the respondent Company directed the petitioner to vacate and handover Quarter No. SD-521 situated at Godavari Colony CCC Naspur, Adilabad District, within seven days from the date of receipt of the proceedings, failing which, penal rent will be recovered from the wages.

The case of the petitioner is that he was appointed as coal filler on 15.11.1978 and since 1991 onwards, he has been staying in Quarter No. SD-521 situated at Godavari Colony CCC Naspur, Adilabad District. As per the terms of the settlement entered into between the Management and Trade Unions, the respondent Company agreed to regularize the allotment of quarters provided the employee fulfills two conditions i.e., the employees have to put up 12 years of service and that they must be in occupation of the quarter for not less than three years by 31.07.1997. The grievance of the petitioner is that though he complied with the above two conditions, the respondent Company issued the impugned proceedings. Hence this writ petition.

Learned counsel for the petitioner contended that as the petitioner has fulfilled the above two conditions, he is eligible for regularization of the quarter in his name and, therefore, the impugned proceedings are liable to be set aside.

Learned standing counsel appearing for the respondents contended that in pursuance of the settlement, the petitioner has to make an application to the respondent Company about fulfillment of the conditions. He further contended

that the affidavit is silent with regard to his application and also the representation made to the respondent Company subsequently would disclose that at that relevant point of time, the petitioner was hospitalized due to which his quarter was not regularized.

A reading of the Memorandum of Settlement would disclose that the respondent Company having considered the unanimous request made by the Union, as a gesture of good will on the eve of the 50th Independence Day Celebrations, agreed to regularize allotment of quarter to the unauthorized occupants provided they put in 12 years and above service in the company and have been in occupation of the said quarters for not less than three years by 31.10.1997. This relaxation is agreed to as a very special case as one-time measure and shall not be quoted as precedent.

In the affidavit filed in support of the writ petition, it is nowhere stated that in pursuance of the settlement, the petitioner has made an application for regularization of quarter. Further, the representation made by the petitioner dated 06.09.2004 would go to show that the petitioner was hospitalized at that relevant point of time, due to which the quarter was not regularised. For the last seven years, the petitioner has not made any application for regularization of the quarter in his name.

Learned counsel for the petitioner placed strong reliance on a decision of this Court in W.P.No. 7434 of 1997 and batch, wherein it held as under:

> "The writ petitions are disposed of directing the respondent Company not to deduct any penal rent from the salaries of the petitioners and other employees until a decision is taken by the Committee of the officers constituted for the purpose of making an enquiry in terms of the aforementioned directions. However, it shall be open to the company to deduct the penal rent from the salaries of such of those petitioners and employees who are not entitled for the protection of the settlement dated 31.07.1997 and who continued to be in unauthorized occupation of the residential staff quarters with retrospective effect. Likewise, such of those petitioners and other employees who are found to be entitled for the protection of the settlement are entitled for the return of penal rents so collected from them, and the company shall have to repay the same to the eligible petitioners and other employees. It shall be open to the respondent Company to take such further steps as it may wish to do so to secure the eviction of the staff quarters from the possession of such unauthorized occupants who are not entitled for the protection of the

settlement."

Admittedly, the petitioner has not made any application pursuant to the settlement entered into between the Management and the Trade Union. Pursuant to the directions of this Court in W.P.No. 7434 of 1997 and batch, the respondent Company has taken decision to regularize the quarters to its staff members. Therefore, once the quarter was not allotted to the petitioner, it shall be deemed that he is an unauthorized occupant and hence, it cannot be said that the impugned proceedings to recover penal rent are issued contrary to the settlement.

Accordingly the writ petition is dismissed. No costs.

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(K.C.BHANU,J)

Dt:24.03.2005

Note:CC in two days

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To

1 The General Manager, Singareni Collieries Company limited,

Srirampur Area, Adilabad.

2 Two CD copies.